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No. 388

IN THE

Supreme Court of the United States

Petition for writ to appeal case 15650 in U. S. Supreme Court

F. E. Meyer vs. Internal Revenue Commissioner

FRANK E. MEYERS
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St. Paul 2, Minn.

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F. E. Meyer vs. Intefnal Revenue Commissioner

There is no dispute in this case about the law. The findings were endorsed by the appeal judges who in addition said no authority was shown by petitioner, see their last paragraph. All the government laws quoted are agreed to namely, that the year must be 1949 to be the correct year of abandonment to comply with those laws; therefor the authority of law is shown. It was agreed to by all judges that the patent machine in question was obsolete long before 1949, but that is false. 1949 is the year abandonment was made and at positively no other time. The machine is not obsolete, that is the issue in this case.

Refer to government brief page 8, middle of paragraph 2 R. 29, 30. Note beginning 14 lines from bottom of page: Machines had been developed which were far superior to my mere card punch device and could accomplish far more than his device e.g., machines which could punch cards, typewrite, calculate and tabulate. R. 17, 19, 24, 25, 29, 30. Taxpayer discovered at this time his device could not punch oblong holes required of modern card punch machines and he would have to manufacture his own tabulator machines. R. 24, 25. Indeed taxpayer testified that he concluded in 1944 that he had to abandon the machine and he stated in 1948 the machine

was stored in a warehouse and the next time he moved he would leave it there. R. 24, 26.

There is no machine today that can punch cards, typewrite, calculate and tabulate. Every one of these cards are hand punched today the same as 30 years ago and as for typewriting, calculating and tabulating, what a joke. A special machine does the calculating and separate cards are punched for that purpose. The typewriting is done not by tabulating, but by what they call univac machines. The IBM & Remington Rand is no longer in the tabulating business as their machines are not tabulators as you will find by referring to Thomases directory.

There are a number of tabulating machine companies today and have been for a long time, namely, Monarch Metal Products Co. Inc., 724 S. Columbus Ave., Mt. Vernon, N. Y.; E-Z Sort System Ltd., 45 2nd Ave., San Francisco; Denomination Co. Inc., 263 Broadway, N. Y.; Multi-Counter Mfg. Co., 401 Broadway, N. Y.; Baeckler Instrument Co., 37 E. Rillits, Tucson. Does that look like I would have to manufacture my own tabulator. Then he goes on to say taxpayer discovered at this time his device could not punch oblong holes required by modern punch machines. That is false. Remington Rand used a round hole and still does, page 19,—4 lines from bottom of transcript, but what difference does it make if round, square, oblong, or hexagon holes are used? See page 18 of transcript, line 19, it is the code not the hole or shape of the hole. Page 19, line 19 and line 29 to 32, in transcript, I said they use a code and the operator punching cards has to know the code. That has nothing to do with my machine or the present tabulating machine companies, they have been here for years. At the trial Judge Turner said I did not have to educate him and no doubt for that reason many of these details were omitted.

Indeed, the government says, taxpayer testified in 1944 he had to abandon the machine. This is 1949 not 1944, see page 119 of original transcript line 18 or page 5, line 3 of Mogrens brief. Another false argument by the government.

The reason I abandoned in 1949 was because I could not go through all those big transactions again, I was too old, had no financial means, patent was too old and the time was gone. Now about leaving the machine in an old warehouse, I left the machine at 520 Cedar Street May 1st, 1951 when I moved to 611 W. Central Park which was the next move as stated in transcript, they tore the building down for the State Capitol Approach.

Refer to page 25, 3rd line from bottom, I said, affidavit was made and signed in 1948. This is an error it was 1951. Note here, page 25, line 11, from bottom, I said I did not find out in 1947 that I could not manufacture the machine. The trip to Chicago was Dec. 24th to Jan. 5th, 1948. When the affidavit was made in 1951 Mogren wanted to know if I went to Chicago in 1949. I said no the last time I was in Chicago was in 1947. He wanted it to appear I learned to abandon the machine on the trip to Chicago. Remember this trip he wanted to be in 1949 and no abandonment was ever mentioned prior to that time. So I agreed he could say it was after 1947 that I went to Chicago, line 21, page 25 of transcript.

Actually it was 1949 that abandonment was made. I learned nothing about abandonment in Chicago, I saw the manager of the L. C. Smith Typewriter Co., but he said they could not finance it, page 24, lines 17 to 20 of transcript. The transcript only says I saw L. C. Smith Co. and what I added here is what it actually was. It certainly can be expected that there would be errors in dates in a trial 4 years after and the affidavit two years after occurrences. On top of page

9, line 3, government brief, they claim there are many inconsistencies, but their own inconsistencies outnumber mine many times over.

Now let us see how this transaction really was. There was no dispute about any income taxes until the year 1948 and 1949 returns. The 1948 return was in the year 1949 and the 1949 return was in the year 1950. Therefor the argument really started in the year 1949 and the year 1948 referred to in transcript actually was in the year 1949 on the 1948 return, see the first 10 lines of page 19 of transcript. On the 1948 return I told the government the patent was abandoned for the first time that was in the year 1949 and quite a while after the 1948 return had been filed. It was too late for any refund and they paid no attention to me and that is when I went to Mogrens office with the $6,340.00 record of loss and he kept it until the 1949 return was made in the year 1950 and it was in the year 1950 on the 1949 tax return that this $6,340.00 record was attached. See first 10 lines of page 19 of transcript.

In last page 10 of government brief in fine print 8 lines from bottom of page, they claim $1,275.00 not to be deductable spent on the purpose of financing. The receipts in the government file will show $6,340.00 and probably as high as $7,000 to $8,500 was spent even though the $1275 is not included. $6,340.00 without any traveling expenses and many other bills were omitted because it was an estimate, but after months of search the receipts were found one by one. $6,340.00 will be considered sufficient.

It is clearly shown that neither Mogren or the government knows anything about the tabulating or univac business and the trial should take precedence over the affidavit and the explanation in this petition bears out conclusively the facts as they absolutely are. The judge complained about the con-

fusion at end of trial, but did not the government pursue the confusion and Mogren helped, could anyone do better in trying to remember dates to answers thrown at you at the pace they were going and do better? I believe this court will find 1949 is the year abandonment was made and rightfully so as clearly shown in the evidence.

Part 2

I asked Mogren why he did not say a word about the refund in 1949 in connection with the loss of $3500.00 in 1946. He said because I did not have the return filed or made out by a lawyer. I said why should I have it made out by a lawyer, I was not trying to beat the government. He said they'll beat you. In the year 1950 right after the refund, late in the year they wanted to know why at the same time of requesting the refund back, why I didn't report the $180.00 interest on $3000.00 sale of farm in 1946. I didn't report the $180.00 in 1948 or 1949, that is in the years 1949 and 1950 because I did not get a refund in 1946 and that is why after I got the refund I reported the $180.00 and have been doing so for ten years so now they owe me either the refund, or tax I paid on the $180.00. Refund of tax on the $180.00 interest paid for ten years will amount to about the same as the refund in 1950; so that if they had let the refund stand and taken the tax on the $180.00 everything would now be excellent. That is where the government confusion comes in, is it not? They pursue it.

See line 19, beginning about line 10 to 12 and page 20, line 19 from bottom including about 11 lines of transcript. Van Runkel, the government attorney, was going into this, but the judge didn't want to hear it so I thought it was very strange he passed on it in his findings. The refund was not

outlawed in 1949 and the law on repossession is very clear. $6500 fair market value in 1944 sold in 1946 for $3000; loss $3500. 1954 internal revenue code, sections see Vol. 2, page 25001, et seq. For full text of proposed and final regulations issued under 1954 code, see V. R. 2 regulations finding list, page 23100-1-et esq.

They didn't dispute I had a loss in 1946.

I believe this court will also find this to be correct.

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